

HOUSE BILL 149

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HB 880/02 - JUD

2003 Regular Session  
3lr0932

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By: **Delegates Goldwater, Boutin, Bromwell, Bronrott, Conroy, Conway, Cryor, ~~Donoghue~~, Dumais, Franchot, Haynes, Hubbard, James, Kirk, Lee, Mandel, Marriott, McIntosh, Menes, Murray, Oaks, Pendergrass, Petzold, Rzepkowski, and ~~Smigiel~~ Smigiel, Love, and Weldon**

Introduced and read first time: January 27, 2003  
Assigned to: Judiciary  
Reassigned: Health and Government Operations, January 30, 2003

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vera's Law**

3 FOR the purpose of ~~creating an exception to the prohibition against willfully~~  
4 ~~intercepting a wire or electronic communication for a person who intercepts~~  
5 ~~wire, oral, or electronic communications in a related institution under certain~~  
6 ~~circumstances; requiring a related institution to permit a resident or a resident's~~  
7 ~~legal representative to monitor the resident through the use of video cameras or~~  
8 ~~other electronic monitoring devices; requiring a resident who shares a room with~~  
9 ~~another resident to obtain written consent before beginning electronic~~  
10 ~~monitoring; requiring the related institution to provide power sources and~~  
11 ~~mounting space to set up electronic monitoring devices; prohibiting a related~~  
12 ~~institution from refusing to admit an individual to the related institution or~~  
13 ~~removing a resident from the related institution because of a request to install~~  
14 ~~an electronic monitoring device; establishing certain penalties for violators;~~  
15 ~~requiring that tapes created from electronic monitoring be admissible in~~  
16 ~~criminal and civil actions brought in Maryland courts, subject to the Maryland~~  
17 ~~Rules of Evidence; requiring the Department of Health and Mental Hygiene to~~  
18 ~~develop guidelines for nursing homes that elect to use electronic monitoring~~  
19 ~~with certain consent; requiring the Department to report on the guidelines to~~  
20 ~~certain committees of the General Assembly on or before a certain date; and~~  
21 ~~generally relating to guidelines for electronic monitoring in related institutions~~  
22 nursing facilities.

23 ~~BY adding to~~

1 ~~Article—Courts and Judicial Proceedings~~  
 2 ~~Section 10-402(e)(10)~~  
 3 ~~Annotated Code of Maryland~~  
 4 ~~(2002 Replacement Volume)~~

5 ~~BY adding to~~  
 6 ~~Article—Health—General~~  
 7 ~~Section 19-343.1~~  
 8 ~~Annotated Code of Maryland~~  
 9 ~~(2000 Replacement Volume and 2002 Supplement)~~

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 11 MARYLAND, That the Laws of Maryland read as follows:

12 ~~Article—Courts and Judicial Proceedings~~

13 ~~10-402.~~

14 ~~(C) (10) (I) IN THIS PARAGRAPH, "RELATED INSTITUTION" HAS THE~~  
 15 ~~MEANING STATED IN § 19-343.1 OF THE HEALTH—GENERAL ARTICLE.~~

16 ~~(H) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO~~  
 17 ~~INTERCEPT A WIRE, ORAL, OR ELECTRONIC COMMUNICATION IN A RELATED~~  
 18 ~~INSTITUTION IF THE PERSON:~~

19 ~~1. IS A RESIDENT OF THE RELATED INSTITUTION OR THE~~  
 20 ~~LEGAL REPRESENTATIVE OF A RESIDENT;~~

21 ~~2. CONDUCTS THE ELECTRONIC MONITORING IN THE~~  
 22 ~~RESIDENT'S ROOM IN THE RELATED INSTITUTION; AND~~

23 ~~3. POSTS A NOTICE ON THE DOOR OF THE RESIDENT'S ROOM~~  
 24 ~~STATING THAT THE ROOM IS BEING MONITORED BY AN ELECTRONIC MONITORING~~  
 25 ~~DEVICE.~~

26 ~~Article—Health—General~~

27 ~~19-343.1.~~

28 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 29 ~~INDICATED.~~

30 ~~(2) "ELECTRONIC MONITORING DEVICE" INCLUDES A VIDEO~~  
 31 ~~SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELEPHONE, AND AN~~  
 32 ~~INTERNET VIDEO SURVEILLANCE DEVICE.~~

33 ~~(3) (I) "RELATED INSTITUTION" MEANS AN ORGANIZED INSTITUTION,~~  
 34 ~~ENVIRONMENT, OR HOME THAT:~~

1                                   1.       MAINTAINS CONDITIONS OR FACILITIES AND EQUIPMENT  
2 TO PROVIDE DOMICILIARY, PERSONAL, OR NURSING CARE FOR TWO OR MORE  
3 UNRELATED INDIVIDUALS WHO ARE DEPENDENT ON THE ADMINISTRATOR,  
4 OPERATOR, OR PROPRIETOR FOR NURSING CARE OR THE SUBSISTENCE OF DAILY  
5 LIVING IN A SAFE, SANITARY, AND HEALTHFUL ENVIRONMENT; AND

6                                   2.       ADMITS OR RETAINS THE INDIVIDUALS FOR OVERNIGHT  
7 CARE.

8                                   (H)       "RELATED INSTITUTION" INCLUDES A NURSING FACILITY OR  
9 VISITING NURSE SERVICE THAT IS CONDUCTED ONLY BY OR FOR ADHERENTS OF A  
10 BONA FIDE CHURCH OR RELIGIOUS ORGANIZATION, IN ACCORDANCE WITH TENETS  
11 AND PRACTICES THAT INCLUDE RELIANCE ON TREATMENT BY SPIRITUAL MEANS  
12 ALONE FOR HEALING.

13       (B)       (1)       A RELATED INSTITUTION SHALL PERMIT A RESIDENT OR LEGAL  
14 REPRESENTATIVE OF THE RESIDENT TO MONITOR THE RESIDENT THROUGH THE  
15 USE OF ELECTRONIC MONITORING DEVICES.

16                                   (2)       (1)       A RELATED INSTITUTION SHALL REQUIRE A RESIDENT WHO  
17 ENGAGES IN ELECTRONIC MONITORING TO POST A NOTICE ON THE DOOR OF THE  
18 RESIDENT'S ROOM.

19                                   (H)       THE NOTICE MUST STATE THAT THE ROOM IS BEING  
20 MONITORED BY AN ELECTRONIC MONITORING DEVICE.

21                                   (3)       BEFORE BEGINNING ELECTRONIC MONITORING, A RELATED  
22 INSTITUTION SHALL REQUIRE A RESIDENT WHO WISHES TO ENGAGE IN ELECTRONIC  
23 MONITORING AND SHARES A ROOM WITH ANOTHER RESIDENT TO OBTAIN THE  
24 WRITTEN CONSENT FROM THE OTHER RESIDENT OR THE LEGAL REPRESENTATIVE  
25 OF THE OTHER RESIDENT.

26                                   (4)       MONITORING CONDUCTED UNDER THIS SECTION SHALL:

27                                   (I)       BE NONCOMPULSORY AND AT THE ELECTION OF THE  
28 RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;

29                                   (II)       BE FUNDED BY THE RESIDENT OR LEGAL REPRESENTATIVE OF  
30 THE RESIDENT; AND

31                                   (III)       PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND  
32 VISITORS TO THE RELATED INSTITUTION TO THE EXTENT REASONABLY POSSIBLE.

33                                   (5)       A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN  
34 INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT  
35 FROM THE RELATED INSTITUTION BECAUSE OF A REQUEST FOR ELECTRONIC  
36 MONITORING.

37                                   (6)       A RELATED INSTITUTION SHALL MAKE REASONABLE PHYSICAL  
38 ACCOMMODATION FOR ELECTRONIC MONITORING, BY PROVIDING:

1                   (4)     A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC  
2 MONITORING DEVICE; AND

3                   (II)    ACCESS TO POWER SOURCES.

4                   (7)     A RELATED INSTITUTION SHALL INFORM A RESIDENT OR THE LEGAL  
5 REPRESENTATIVE OF THE RESIDENT OF THE RESIDENT'S RIGHT TO ELECTRONIC  
6 MONITORING.

7                   (8)     A RELATED INSTITUTION MAY REQUEST A RESIDENT OR A  
8 RESIDENT'S LEGAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING  
9 WITHIN PLAIN VIEW.

10                  (C)     A RESIDENT WHO WISHES TO INSTALL AN ELECTRONIC MONITORING  
11 DEVICE MAY BE REQUIRED BY THE ADMINISTRATOR OF THE RELATED INSTITUTION  
12 TO MAKE THE REQUEST IN WRITING.

13                  (D)     SUBJECT TO THE MARYLAND RULES OF EVIDENCE, A TAPE CREATED  
14 THROUGH THE USE OF ELECTRONIC MONITORING SHALL BE ADMISSIBLE IN EITHER  
15 A CIVIL OR CRIMINAL ACTION BROUGHT IN A MARYLAND COURT.

16                  (E)     (1)    A PERSON WHO OPERATES A RELATED INSTITUTION IN VIOLATION  
17 OF THE PROVISIONS IN THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON  
18 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,000 OR IMPRISONMENT NOT  
19 EXCEEDING 5 YEARS OR BOTH.

20                  (2)     A PERSON WHO WILLFULLY AND WITHOUT THE CONSENT OF A  
21 RESIDENT HAMPERS, OBSTRUCTS, TAMPERS WITH, OR DESTROYS AN ELECTRONIC  
22 MONITORING DEVICE OR TAPE SHALL BE GUILTY OF A MISDEMEANOR AND ON  
23 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,000 OR IMPRISONMENT NOT  
24 EXCEEDING 90 DAYS OR BOTH.

25     SECTION 1. AND BE IT FURTHER ENACTED, That:

26     (a)     The Department of Health and Mental Hygiene shall develop guidelines  
27 for a nursing home that elects to use electronic monitoring with the consent of a  
28 resident or the legal representative of the resident.

29     (b)     On or before December 1, 2003, the Department of Health and Mental  
30 Hygiene shall report on the guidelines developed under subsection (a) of this section  
31 to the Senate Finance Committee and the House Health and Government Operations  
32 Committee of the General Assembly, in accordance with § 2-1246 of the State  
33 Government Article.

34     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 ~~October~~ July 1, 2003.

